

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

**WILLIAM PRAILEAU, individually and next friend of his
infant children A.M.P., Y.A.P., A.A.P., and B.A.P.;
A.M.P., infant; Y.A.P., infant; A.A.P., infant;
B.A.P., infant; and FIRST CORPORATE SECURITY LLC,**

v.

Plaintiffs,

**7:09-CV-0924
(TJM/GHL)**

**THE COUNTY OF SCHENECTADY, a municipal entity;
TIMOTHY M. MELL, Police Officer; WILLIAM GALLOP, Police Officer;
BRYAN T. BILLA, Police Officer; JUSTIN T. BOLLE, Police Officer;
MICHAEL RANALLI, Chief of Police; GLENVILLE POLICE
DEPARTMENT; TOWN OF GLENVILLE, a municipal entity;
HARRY BUFFARDI, Sheriff; SGT. JAMES, Schenectady
County Correctional Facility; INVESTIGATOR BROWN, Schenectady County;
APOLLO, Security Manager at Glenville Walmart; and
GLENVILLE WALMART,**

Defendants.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION & ORDER

I. INTRODUCTION

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred by this Court to the Hon. George H. Lowe, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule N.D.N.Y. 72.3(c). Magistrate Judge Lowe issued a Report-Recommendation & Order [dkt. # 4] in which he recommended that certain plaintiffs be dismissed and that Plaintiff file an amended complaint properly setting forth, in compliance with the dictates of Federal Rules of Civil

Procedure 8 & 10, the remaining claims. Plaintiff filed objections to the recommendations. Dkt. # 6.

II. STANDARD OF REVIEW

When objections to a magistrate judge's report and recommendation are lodged, the district court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1)(C). General or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error. Farid v. Bouey, 554 F. Supp. 2d 301, 306 n.2 (N.D.N.Y. 2008); see Frankel v. N.Y.C., 2009 WL 465645 at *2 (S.D.N.Y. Feb. 25, 2009).¹ After reviewing the Report-Recommendation, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1)(C).

III. DISCUSSION

Having reviewed the Report-Recommendation & Order [dkt. # 4] and Plaintiff's

¹ The Southern District wrote in Frankel:

The Court must make a *de novo* determination to the extent that a party makes specific objections to a magistrate's findings. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir.1997). When a party makes only conclusory or general objections, or simply reiterates the original arguments, the Court will review the report strictly for clear error. See Pearson-Fraser v. Bell Atl., No. 01 Civ. 2343, 2003 WL 43367, at *1 (S.D.N.Y. Jan. 6, 2003); Camardo v. Gen. Motors Hourly-Rate Employees Pension Plan, 806 F.Supp. 380, 382 (W.D.N.Y.1992). Similarly, "objections that are merely perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original [papers] will not suffice to invoke *de novo* review." Vega v. Artuz, No. 97 Civ. 3775, 2002 WL 31174466, at *1 (S.D.N.Y. Sept. 30, 2002).

2009 WL 465645, at *2.

objections thereto [dkt. # 6], the Court adopts the Report-Recommendation & Order in its entirety for the reasons stated therein..

III. CONCLUSION

Therefore, it is hereby

ORDERED that infants A.M.P., Y.A.P., A.A.P., and B.A.P., and First Corporate Security, LLC are **DISMISSED** as plaintiffs and any claims by or on behalf of these Plaintiffs are **DISMISSED without prejudice**; and it is further

ORDERED that Plaintiff William Praileau is not permitted to proceed as "next friend" of infants A.M.P., Y.A.P., A.A.P., and B.A.P., and the Clerk of the Court shall remove the phrase "next friend of his infant children A.M.P., Y.A.P., A.A.P. and B.A.P." from the description following Plaintiff William Praileau's name on the docket; and it is further

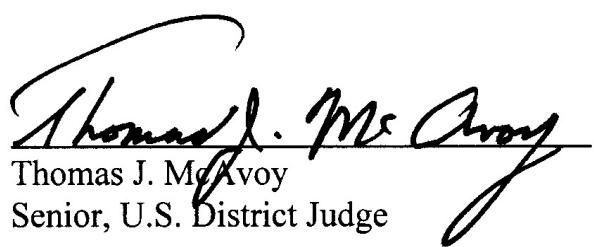
ORDERED that Plaintiff shall file an amended complaint in compliance with the dictates of Federal Rules of Civil Procedure 8 & 10, and that the amended complaint be filed within thirty (30) days of the date of this Decision and Order; and it is further

ORDERED that if Plaintiff fails to timely file an amended complaint, the Clerk shall enter judgment dismissing this action without further order of this Court due to Plaintiff's failure to comply with the terms of this Decision and Order; and it is further

ORDERED that upon the filing of Plaintiff's amended complaint, the file in this matter be returned to Magistrate Judge Lowe for further review.

IT IS SO ORDERED

Dated:September 18, 2010



Thomas J. McAvoy
Senior, U.S. District Judge